

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:)	
)	Chapter 13
Jordan A. Garlock,)	Case No.: 16-20074
)	
Debtor)	

AMENDED ORDER ON TRUSTEE’S MOTION TO DISMISS

This matter is before the Court in connection with the Chapter 13 Trustee’s (“Trustee”) motion to dismiss the Chapter 13 case of Jordan A. Garlock (Docket Entry “D.E.” 128). Previously, the Court granted that motion and entered a “drop dead” order on February 24, 2021 (the “Dismissal Order”) which provided, among other things, that “[i]f the Debtor is not current on his payments to the Trustee on March 22, 2021 or April 20, 2021, the Trustee shall file a status report informing the Court of such plan arrearage, and the case shall be dismissed.” D.E. 175.

On April 22, 2021, the Trustee reported that the Debtor failed to make the payment due on April 20, 2021 and requested that the Court “promptly dismiss this case.” D.E. 177. Less than one hour and 15 minutes later, the Debtor filed a response indicating:

The Debtor attempted to make, and believed he had made, a payment via the TFS billpay system on April 19, 2021. Debtor realized he inadvertently entered the incorrect banking information and the payment did not go through. Debtor resubmitted payment via TFS bill pay using the Moneygram option on April 22, 2021 which should appear immediately. Therefore the Debtor respectfully requests the court not take action on the Trustee’s request to promptly dismiss the case.

D.E. 178.

A hearing was held on this matter on May 12, 2021, during which the Trustee expressed undisguised frustration with the Debtor’s history of failing to keep current on his Chapter 13 plan

payments.¹ Nevertheless, by the hearing date the Debtor was current and the Trustee did not ask for a dismissal but instead requested that the Court issue yet another “drop dead” order which would remove the burdens established in the Code and Rules on motions to dismiss from his shoulders and place them upon the Debtor. The Debtor, through his counsel, agreed to this relief.

The Court took the matter under advisement.

The Court will accede to the request of the Trustee and the Debtor and will permit the Debtor one final shot at completing this Chapter 13 plan, which, according to the Debtor, has just sixteen remaining payments.

Therefore, it is **ORDERED**:

1. The Dismissal Order is hereby amended and replaced by this order.
2. The Trustee’s motion to dismiss is **DENIED**. If the Debtor misses any of the remaining plan payments, the Trustee may, at his election, file a simple motion to dismiss providing that a plan payment was due on a particular date but was not received by the Trustee by that date. If the Debtor objects to the motion to dismiss, he must file an objection within seven days and the Clerk’s office shall set it for hearing for the next Chapter 13 hearing date.
3. This order is without prejudice to the Trustee filing a motion to dismiss on bases other than the Debtor’s failure to make timely plan payments.

Date: May 20, 2021

/s/ Peter G. Cary
Hon. Peter G. Cary
United States Bankruptcy Judge

¹ The Debtor has filed three Chapter 13 cases since 2012 – Case No.: 12-20182, Case No.: 14-20277 and this case. The first two were dismissed for failure to make plan payments. In the current case alone, the Trustee has filed four motions to dismiss for failures to make plan payments. See D.E.s 24, 92, 109 and 128.